

Senate Bill No. 93

Passed the Senate September 11, 2007

Secretary of the Senate

Passed the Assembly September 10, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 14124.70 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 93, Corbett. Medi-Cal: third-party liability.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons.

Existing law authorizes the Director of Health Care Services, as well as the Attorney General, and other specified officials, to bring an action to recover the reasonable value of benefits provided or that will be provided to a Medi-Cal recipient against a 3rd party, including an insurance carrier, because of any injury for which the 3rd party is liable.

Existing law contains procedures governing these actions, as well as provisions pertaining to the director's right to claim reimbursement when the claim against a 3rd party is brought by another person, including the recipient. Existing law prohibits the director's claim for exceeding $\frac{1}{2}$ of the beneficiary's recovery after deducting fees and costs.

Existing law defines the term "lien" as the director's claim for recovery, from a beneficiary's tort action or claim, of the reasonable value of benefits provided on behalf of the beneficiary.

This bill would prohibit the amount paid by Medi-Cal from being considered as evidence of past medical damages or for the purpose of reducing the 3rd party's liability to the beneficiary in any 3rd-party action.

The people of the State of California do enact as follows:

SECTION 1. Section 14124.70 of the Welfare and Institutions Code is amended to read:

14124.70. As used in this article:

(a) "Carrier" includes any insurer as defined in Section 23 of the Insurance Code, including any private company, corporation,

mutual association, trust fund, reciprocal or interinsurance exchange authorized under the laws of this state to insure persons against liability or injuries caused to another, and also any insurer providing benefits under a policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance or use of a motor vehicle which provides uninsured motorist endorsement or coverage, pursuant to Section 11580.2 of the Insurance Code.

(b) “Beneficiary” means any person who has received benefits or will be provided benefits under this chapter because of an injury for which another person or party may be liable. It includes such beneficiary’s guardian, conservator or other personal representative, his estate or survivors.

(c) “Reasonable value of benefits” means both of the following:

(1) Except in a case in which services were provided to a beneficiary under a managed care arrangement or contract, “reasonable value of benefits” means the Medi-Cal rate of payment, for the type of services rendered, under the schedule of maximum allowances authorized by Section 14106 or, the Medi-Cal rate of payment, for the type of services rendered, under regulations adopted pursuant to this chapter, including but not limited, to Section 14105.

(2) If services were provided to a beneficiary under a managed care arrangement or contract, “reasonable value of benefits” means the rate of payment to the provider by the plan for the services rendered to the beneficiary, except in cases where the plan pays the provider on a capitated or risk sharing basis, in which case it means the value of the services rendered to the beneficiary calculated by the plan as the usual customary and reasonable charge made to the general public by the provider for similar services.

(d) “Lien” means the director’s claim for recovery, from a beneficiary’s tort action or claim, of the reasonable value of benefits provided on behalf of the beneficiary. The amount paid by Medi-Cal shall not be considered as evidence of past medical damages or for the purpose of reducing the third party’s liability to the beneficiary in any third-party action.

Approved _____, 2007

Governor